

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MONSURU WOLE SHO,)	Case No.: 1:21-cv-01812-BAK (HBK)
)	
Petitioner,)	FINDINGS AND RECOMMENDATIONS TO
)	DISMISS OR DENY MOTION FOR INJUNCTIVE
v.)	RELIEF
)	
CURRENT OR ACTING FIELD OFFICE)	
DIRECTOR, SAN FRANCISCO FIELD)	(Doc. No. 9)
OFFICE, UNITED STATES IMMIGRATION)	
AND CUSTOMS ENFORCEMENT, et al.,)	TWENTY-ONE DAY OBJECTION PERIOD
)	
Defendants.)	ORDER DIRECTING CLERK OF COURT TO
)	ASSIGN DISTRICT JUDGE TO CASE
)	

Petitioner is detained by the United States Bureau of Immigration and Customs Enforcement (“ICE”) and is proceeding on his Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2241 (Doc. No. 1) which was transferred to this Court on December 27, 2021. (Doc. No. 12). On December 8, 2021, Petitioner filed a one-page, two sentence pleading titled “Temporary Restraining Order.” (Doc. No. 9). In the pleading, Petitioner states he “would like a restraining order” on Respondents and asks that it “should be heard with the existing case.” (*Id.*). The pleading otherwise does not otherwise provide any specificity as to what relief Petitioner is seeking. (*Id.*). Liberally construed, the Court finds the pleading essentially requests the same relief as the Petition.

At the outset because Petitioner is seeking identical relief in his Petition, the motion should be dismissed as duplicative. On February 9, 2022, the Court has ordered Respondent to respond to the

merits of the Petition within sixty days. (Doc. No. 18). Thus, Respondent's response is not yet due. Furthermore, a petitioner seeking a temporary restraining order must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of such relief, that the balance of equities tips in his favor, and that an injunction is in the public interest. *See Winter v. Natural Res. Def. Council*, 555 U.S. 7, 20 (2008). Here, Petitioner does not address any of the *Winter* factors to warrant this extraordinary relief.

Accordingly, it is ORDERED:

The Clerk shall assign this case to a district judge for purposes of these Findings and Recommendations.


It is further RECOMMENDED:

That Petitioner's construed motion for temporary restraining order be DISMISSED as duplicative of the relief requested in his Petition or in the alternative be DENIED on the merits.

NOTICE

These findings and recommendations are submitted to the United States District Court Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the Local Rules of Practice for the United States District Court, Eastern District of California. Within twenty-one days after being served with a copy, Petitioner may file written objections with the Court. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." The Court will then review the Magistrate Judge's ruling pursuant to 28 U.S.C. § 636 (b)(1)(C). Petitioner is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

Dated: February 16, 2022


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE